

REMARKS

This application has been reviewed in light of the Office Action dated February 18, 2009. Claims 1, 4-22, 55-59, 61-82, 93, 94, and 98-101 are presented for examination, of which Claims 1, 55, and 65 are in independent form. Favorable reconsideration is requested.

Claims 1, 4-22, 55-59, 61-82, 93, 94, and 98-101 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the phrase “at least non-final suggested solutions”, recited in Claims 1, 55, and 65, has been deemed unclear.

With regard to the foregoing-quoted language at issue, a session (process) can involve finding a solution in an iterative step-by-step-process. (See, inter alia, page 4, line 2 and page 5, line 14 of the specification). The decision to accept a solution as final or not is not a precondition, since the process is an iterative step-by-step problem solution process. Thus, even if, for example, a session includes no final solution (although it may include a final solution), the provided ideas still might include valuable steps or modules on the way to a solution. Accordingly, the use of the phrase “at least non-final suggested solutions” is believed to be entirely appropriate, particularly since one skilled in the art would clearly understand, in view of at least the cited parts of the specification, that the phrase (1) accounts for the possible iterative nature of the procedure, (2) does not necessarily limit the subject matter to a final solution, and (3) particularly points out and distinctly claims the subject matter which Applicant regards as his invention.¹

The Office Action states, with respect to the last “wherein” clause in Claim 1, for

^{1/} It should be noted that the example embodiment(s) described above is/are for purposes of illustration, and that the claims are not necessarily limited to those specific embodiment(s) only/

example, that it “is unclear if the [a]ward is also given to the final suggested solution or not”. However, the “wherein” clause recites that the distributions of the portions of the award are varied over the course of a development of the suggested solutions **for the purpose of guiding the development of a final solution to the problem**. That language (the boldfaced part of which is emphasized in boldfaced type in the Office Action), does not require a decision to be made about a final or non-final solution, and simply and clearly recites that the purpose is to guide development to a final solution to the problem. For example, as explained above, a session could include several solutions, and the first posted solution could be used after the session as the “final solution”. If a session includes no final solution, the provided ideas still might include valuable iterative steps or modules on the way to a solution. An award may be payable not necessarily to the final solution, but may also be payable to the most helpful idea or intermediate solution. The system is not necessarily about providing final solution; finality is not a precondition. Of course, final solutions are also welcome in the session.

Accordingly, the use of the foregoing phrase also is believed to be entirely appropriate, particularly since one skilled in the art would clearly understand, in view of at least the cited parts of the specification, that the phrase accounts for the (possible) iterative nature of the procedure and thus particularly points out and distinctly claims the subject matter which Applicant regards as his invention.

In view of the foregoing, withdrawal of the Section 112 rejection is requested.²

^{2/} It should be noted that all the example embodiment(s) described above is/are for purposes of illustration, and that the claims are not necessarily limited to those specific embodiment(s) only/

Claims 1, 4-9, 12-19, 22, 55-59, 61, 62, 64-72, 74-76, 78, 79, 93, 94, and 98-101 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,064,978 (Gardner et al.; hereinafter “Gardner”).

Claims 20 and 80 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gardner* in view of the Internet web page entitled “How Experts Exchange® Works” (<http://web.archive.org/web/1997042101341/www.experts-exchange.com/info/howto.html>; hereinafter “Experts-Exchange”); Claims 10, 21, 63, 81, and 82 have been rejected over *Gardner* in view of U.S. Patent 6,694,355 (Bahar); and Claims 11 and 73 have been rejected in view of Official Notice.

The Patent and Trademark Office (PTO) rejected various claims previously based on *Gardner* in this application. See, e.g., the Office Action mailed June 28, 2004. In response to that Office Action, Applicant filed an Amendment on or around September 28, 2004, that was received by the PTO on October 1, 2004. The Remarks section of that Amendment clearly explained how the various claims that were pending at the time were patentably distinguishable over *Gardner*. The PTO then withdrew the June 28, 2004 rejection based on *Gardner* in favor of new grounds of rejection that did not involve *Gardner* at all, in the Office Action dated January 27, 2005.

Despite the foregoing, the PTO has now rejected claims once again over the same *Gardner* reference, even though the applicable independent claims now recite even more limitations than they did at the time when the January 27, 2005 Office Action (which no longer relied on *Gardner*) was issued. Applicant still strongly believes that independent Claims 1, 55, and 65 are clearly patentable over *Gardner* for the reasons set forth in the Remarks section of the

Amendment filed on or around September 28, 2004, and respectfully invites the Examiner to revisit them again. Nonetheless, for the Examiner's convenience, applicable parts of those remarks are set out again hereinbelow.

Independent Claim 1 recites, in part, that the server receives from a first participant a formulation of a problem, and receives from a plurality of other participants suggested solutions to the problem. Before it is determined that the problem has been solved, a portion of the award is distributed to at least one participant who contributed a suggested solution to the problem. This novel technique provides incentives to participants to suggest intermediate solutions that advance the problem towards a final one.

Independent Claim 55 relates to an apparatus for facilitating problem solving on a network, and is drafted in means plus function form. Independent Claim 65 relates to a method for facilitating problem solving over a network, and is drafted in term of steps carried out by a server. Each of those claims recites the salient features discussed above with respect to Claim 1, namely the posting of a problem, the receipt of suggested solutions and the distribution of a portion of the award, before it has been determined that the problem has been solved, to at least one participant who contributed a suggested solution.

It has become fairly well-known to utilize the Internet for problem solving applications. In a conventional arrangements, a user having a question posts it on a Web site, where it may be viewed by other users, who then provide answers in response. To provide incentives to users to submit answers, it is known to offer an award, such as a monetary award, to the user who provides the final and correct one.

While generally for some intended purposes, the existing schemes suffer drawbacks, stemming from the fact that they do not give an award to a user providing an answer until the answer is considered to be complete. This approach under-values the importance of

intermediate answers, which while not providing the actual and final solution, may very often give some direction towards the final solution, and which therefore constitute an important, and in many cases crucial, part of the problem solving process. Despite the importance of such intermediate answers, however, the conventional techniques provide insufficient incentives to users to submit them.

Example aspects to which Applicant's application relates overcome this limitation by distributing a portion of a total award before it has been determined that the problem has been solved, to at least one participant who contributed a suggested solution. By using this approach, a participant who, for example, does not know the ultimate solution to the problem, but does have a partial solution, or an idea for moving towards a solution, is given a sufficient incentive to provide it.

Gardner relates to a computer networked question and answer system. In the system of Gardner, an asker A publishes a question and assigns it a number of points N. The asker A receives comments on his question, and with each comment received determines whether it constitutes all or part of the answer. If a comment does constitute all or part of an answer, A assigns a quantitative evaluation (e.g. a letter grade or numerical score) to the comment. The process continues until the answer is deemed complete, at which stage points are actually awarded to those who submitted comments, using the quantitative evaluations as a weighting factor.

Significantly, in Gardner, no points are awarded to anyone until the answer is deemed complete. Although the asker can assign a quantitative evaluation factor to an answerer B who provides part of the answer, that assignment is not an award of any type. In fact, it is not even a guarantee that an award will be given for the partial answer, since the asker in Gardner may reevaluate the evaluations that he has already made. See Gardner at col. 3:37-38; Fig. 1,

step 108. Thus, Gardner, like all of the conventional prior art, simply does not provide an effective incentive to submit intermediate solutions.

In the mentioned independent claims, on the other hand, a portion of the award is distributed before it is determined that the problem has been solved, to at least one participant who contributed a suggested solution. By distributing a portion of the award in this fashion, before the problem is solved, the present invention provides a concrete incentive to submit an intermediate solution. Because this feature is neither taught nor suggested by Gardner, Applicant respectfully submits that Gardner cannot possibly anticipate the present independent claims.

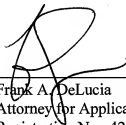
A review of the other art cited in the Office Action has failed to reveal anything which, in Applicant's view, would remedy the deficiencies of Gardner as a reference against the independent claims herein. Accordingly, those claims are believed to be clearly patentable over that art.

The dependent claims depend from one or another of the independent claims discussed above, and thus partake in their patentability over the art cited in the Office Action. Nonetheless, because each recites an additional aspect of the invention, the individual reconsideration of each on its own merits is respectfully requested.

In view of the foregoing remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100 or by facsimile at (212) 218-2200. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank A. DeLucia', is written over a horizontal line.

Frank A. DeLucia
Attorney for Applicant
Registration No. 42,476

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

FCIS_WS 2935493v1